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Paper No. 5

JOHN DAN MACKINNON
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COPY MAILED

MAR 11 2003

In re Application of
John Dan Mackinnon
Application No. 10/084,805
Filed: February 28, 2002
Title: PULL HANDLE FOR INVALID
WALKERS

OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the letter¹ received on January 27, 2003, requesting that the above-identified application be accorded a filing date of October 9, 2002.

The application was filed on February 28, 2002. On January 27, 2003, petitioner submitted a letter which states, in its entirety:

My filing date of 02/28/2002 seems correct, however you sent my application and filing date by mail seven or eight months late. The date you mailed my notice was 10/09/2002. I've already sent a utility application so I lost eight months or more. I feel cheated of this time and I was then rushed to finish the patent process. Concluding this time period I also was pressed for time to raise the funds and ready myself to advertize and sell my patent. **I wish to make the date of 10/09/2002 the new filing date.** Please refer to the letter that you sent with a mailing date of 10/09/2002 with a confirmation no. of 8488.

It is noted that petitioner has made the somewhat unusual request of requesting a *later* filing date, on the grounds that the Office did not mail his filing receipt until over eight (8) months from the filing of the application.

Section 503 of the MPEP sets forth that OIPE mails a filing receipt to the applicant for each application filed which meets the minimum requirements to receive a filing date. The filing receipt includes the application number, filing date, a confirmation number, a suggested class in the U.S. Patent Classification System (see MPEP § 902.01), and the number of an art unit where the application is likely to be examined. The filing receipt also includes other information about the application as applicable, such as continuing

¹ This is properly treated as a petition under 37 CFR 1.53(b).



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data, national stage data, foreign priority data, foreign filing license data, entity status information, and the date the Office anticipates publishing the application under 35 U.S.C. 122(b). The filing receipt represents the official assignment by the USPTO of a specific application number and confirmation number to a particular application. See 37 CFR 1.54(b). A nonprovisional application, other than a CPA filed under 37 CFR 1.53(d), is entitled to a filing date as of the date of receipt of the specification, including claims, and any required drawing. See 37 CFR 1.53(b). The filing receipt will be mailed at the time a determination is made that the application meets the minimum requirements to receive a filing date. The oath or declaration and filing fee may be filed later than the remaining application papers, but if so, they must be accompanied by the required surcharge. See 37 CFR 1.53(f). If the oath or declaration, and/or filing fee, and appropriate surcharge are not timely filed, the application will be abandoned.

The filing receipt serves merely as an identifier of the serial number, filing date, art unit, and continuity data. In no way would the failure to receive a filing receipt impair or "cheat" an applicant. Applicants are free to raise funds and promote their inventions without the physical possession of a filing receipt.

Therefore, the petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

The reply to this letter may be submitted by mail², hand-delivery³, or facsimile⁴.

The petition fee of \$130.00 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

After this decision is mailed, the application will be forwarded to Technology Center 3600 for further processing.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

B. L. M. Flanagan
Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
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² Commissioner for Patents, Box DAC, Washington, DC 20231.

³ Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.

⁴ (703) 308-6916 Attn: Office of Petitions.